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Planning Commission Staff Report

TO: PLANNING COMMISSION

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MEETING DATE: SEPTEMBER 3, 2014

SUBJECT: Z14-15(A): REQUEST TO AMEND THE TOWN OF GILBERT LAND DEVELOPMENT CODE: CHAPTER I ZONING REGULATIONS, DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, SECTION 4.5014 MEDICAL MARIJUANA DISPENSARIES, OFFSITE CULTIVATION SITES AND DESIGNATED CAREGIVER CULTIVATION LOCATIONS RELATED TO HOURS OF OPERATIONS; CHAPTER I ZONING REGULATIONS, DIVISION 2 LAND USE REGULATIONS, ARTICLE 2.3 COMMERCIAL DISTRICTS, SECTION 2.305 ADDITIONAL DEVELOPMENT REGULATIONS RELATED TO DRIVE-THROUGH AISLE SETBACK FROM A RESIDENTIAL USE; CHAPTER I ZONING REGULATIONS, DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, SECTION 4.506 DRIVE-THROUGH AISLES RELATED TO DRIVE-THROUGH AISLE SETBACK FROM A RESIDENTIAL USE; CHAPTER III SUBDIVISION REGULATIONS, ARTICLE 1.2 MINOR LAND DIVISION AND MINOR SUBDIVISION, SECTION 1.209 EFFECTIVE DATE AND EXPIRATION DATE RELATED TO AUTOMATIC EXPIRATION OF APPROVAL; CHAPTER I ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.6 EMPLOYMENT DISTRICTS, SECTION 2.603 LAND USE REGULATIONS RELATED TO INCIDENTAL RETAIL USE; CHAPTER I ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.6 EMPLOYMENT DISTRICTS, SECTION 2.606 ADDITIONAL USE REGULATIONS

RELATED TO INCIDENTAL RETAIL USE; CHAPTER I ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.2 MULTI-FAMILY RESIDENTIAL DISTRICTS, SECTION 2.204 SITE DEVELOPMENT REGULATIONS RELATED TO GROUND-FLOOR PRIVATE OPEN SPACE SCREENING; GLOSSARY OF GENERAL TERMS, BUILDING, DETACHED RELATED TO THE DEFINITION OF A DETACHED BUILDING; CHAPTER I ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.1 SINGLE FAMILY RESIDENTIAL DISTRICTS, SECTION 2.106 ADDITIONAL DEVELOPMENT REGULATIONS RELATED TO THE HEIGHT OF GUEST QUARTERS; CHAPTER I ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.1 SINGLE FAMILY RESIDENTIAL DISTRICTS, SECTION 2.106 ADDITIONAL DEVELOPMENT REGULATIONS RELATED TO ACCESSORY STRUCTURE PERMITTING; CHAPTER I ZONING REGULATIONS, DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.2 OFF-STREET PARKING AND LOADING REGULATIONS, SECTION 4.203 GENERAL PROVISIONS RELATED TO ADDITIONAL PARKING ON SINGLE FAMILY RESIDENTIAL LOTS; CHAPTER I ZONING REGULATIONS, DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.4 SIGN REGULATIONS, SECTION 4.409 OFFICE/EMPLOYMENT RELATED TO TOWER AND FREEWAY SIGNAGE; AND CHAPTER I ZONING REGULATIONS, DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.4 SIGN REGULATIONS, SECTION 4.4010 PUBLIC FACILITY/ INSTITUTIONAL RELATED TO TOWER AND FREEWAY SIGNAGE.

STRATEGIC INITIATIVE:

Community Livability

The proposed text amendments represent the product of a comprehensive review undertaken to clarify terms and add cross references where needed. The proposed amendments will also resolve discrepancies, reflect current development standards and amend the glossary of terms to enhance the live, work, play environment.

RECOMMENDED MOTION

FOR THE REASONS SET FORTH IN THE STAFF REPORT, MOVE TO RECOMMEND APPROVAL TO THE TOWN COUNCIL FOR Z-14-15-A.

BACKGROUND/DISCUSSION

At the Planning Commission's July 2, 2014 meeting, the Commission held a citizen review and initiated Z14-15, a comprehensive text amendment of the Land Development Code to address a multitude of technical corrections, improvements and enhancements with the goal of realizing opportunities for more consistent, predictable and desired development outcomes. During

discussion, staff noted that it would be returning with various components of the comprehensive text amendment as each portion was ready for Planning Commission review. This “first batch” of text amendments includes 10 distinct proposed changes to the Land Development Code; each text amendment has been assigned a case file identifier (eg, A.1). This initial set of text amendments was reviewed by the Planning Commission at its August 6, 2014 Study Session; comments provided to staff at that meeting have been either been incorporated into the proposed amendments or have been addressed in the staff report narrative. The proposed text amendments are presented below.

- Z-14-15-A.1 “Medical Marijuana Facility; Hours of Operation”
- Z-14-15-A.2 “Drive-Through Facilities; Separation from Residential Uses”
- Z-14-15-A.3 “Minor Land Division and Minor Subdivision; Approval Expiration”
- Z-14-15-A.4 “Employment Districts; Accessory Retail Sales”
- Z-14-15-A.5 “Private Open Space; Screening”
- Z-14-15-A.6 “Detached Building Definition”
- Z-14-15-A.7 “Guest Quarters”
- Z-14-15-A.8 “Accessory Structures”
- Z-14-15-A.9 “Parking; Side Yard Setback”
- Z-14-15-A.10 “Tower and Freeway Signage; Flexibility for Non-Residential Zoning Districts”

Overview

Z-14-15-A.1 “Medical Marijuana Facility; Hours of Operation”

Staff has received input from a citizen currently operating Medical Marijuana Facilities (MMF) with respect to the operating time restriction imposed by the Land Development Code (LDC). MMF are defined as (LDC Article 6.1 Use Definitions) as “*Medical Marijuana Dispensaries [MM-D], Medical Marijuana Offsite Cultivation Sites [MM-OCS] and Medical Marijuana Designated Caregiver Cultivation Locations [MM-DCCL]*” and currently have an operating time restriction of 8am-6pm (LDC 4.5014.D). The LDC allows for MMF to be located solely in the Light Industrial (LI) and General Industrial (GI) zoning districts. In comparing the LDC’s treatment of MMF to the other LDC uses (Smoking Lounges, Tattoo/Piercing Studios and Sexually-Oriented Businesses) where both a separation from sensitive land uses and prevention of use-concentration are prescribed by the LDC, only Tattoo/Piercing Studios have an operating time restriction (8am-11pm by right, extension beyond 11pm is allowed with a Conditional Use

Permit). In briefly comparing the Town’s regulation of MMF to other municipalities, it appears extending the evening allowable operating time to 7pm for MM-D would be consistent with several other jurisdictions while also addressing the input received to date. Table A.1 below summarizes the comparative research.

<i>Table A.1</i>	MM-D
City of Phoenix	8am-7pm
City of Tucson	9am-7pm
City of Mesa	8am-9pm
City of Scottsdale	6am-7pm
Town of Fountain Hills	9am-5pm (M-F)
City of Sedona	8am-8pm

At the Planning Commission’s August 6, 2014 Study Session, the Commission discussed the necessity of expanding operating hours and specifically, some members felt no expansion was desired by the community; however, staff believes the general consensus through discussion was that an additional hour of operation, as proposed, would best serve the community.

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code to effect reduction of the operating time restriction for Medical Marijuana Facilities such that these uses are allowed to conduct business from 8am to 7pm.

Chapter I 4.5014 Medical Marijuana Dispensaries, Offsite Cultivation Sites and Designated Caregiver Cultivation Locations

Article 4.5014 Medical Marijuana Dispensaries, Offsite Cultivation Sites and Designated Caregiver Cultivation Locations is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

* * *

*D. Hours of Operation. A Medical Marijuana Facility shall have operating hours not earlier than 8:00a.m. and not later than 7:00**6:00**p.m.*

* * *

Overview

Z-14-15-A.2 “Drive-Through Facilities; Separation from Residential Uses”

Staff has observed a potential discrepancy in the setback requirement for drive-through facilities from residential uses. The Land Development Code (LDC) Glossary of General Terms defines these facilities as “An establishment that provides services to customers in motor vehicles. Drive-through facilities do not include Eating and drinking establishments that serve food to customers in parked vehicles.” These drive-through facilities are exclusively allowed in the Town’s commercial zoning districts. The Additional Development Regulations section of the Commercial Districts Article (LDC 2.305.C) states:

Drive-through facilities shall be a minimum of 50 feet from property designated for residential use in the General Plan.”

However, the Supplemental Use Regulations Article contains a sub-section addressing drive-through aisles (LDC 4.506.C); this regulation states:

Drive-through aisles shall be located and developed in compliance with the following standards:

Drive-through aisles shall be located at least 100 feet from a single family or multi-family lot or parcel or an area designated as Single Family or Multi-Family Residential use in the General Plan. This distance may be reduced by:

- 1. The width of a recorded open space tract on an adjacent parcel; or*
- 2. The width of an adjacent street.*

In no event shall the required building setback for the district be reduced.

Staff finds the 50’ separation for the actual drive-through facility promulgated by LDC 2.305.C is the pertinent regulation and the more excessive 100’ setback for a drive-aisle element supporting a drive-through facility is both contradictory and unnecessary.

At the Planning Commission’s August 6, 2014 Study Session; the Commission directed staff to further clarify which portion of the drive through facility must meet the required separation, indicating that the applicable dimension should be the outside stripe of the drive-through aisle as this function of the drive-through facility is the first component of the operation to present a potential incompatibility with adjacent residential development.

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code to effect removal of Land Development Code section 4.506 of the Supplemental Use Regulations Article and sequential renumbering of subsequent sections. Staff further proposes clarification of where the resulting separation requirement is applied and measured in section 2.305 of the Commercial Districts Article.

Chapter I 2.305 Additional Development Regulations

Article 2.305.C Additional Development Regulations is hereby amended to read as follows (additions in ALL CAPS/UNDERLINE; deletions in ~~strikeout~~) [NOTE, NUMBERING CHANGES AFFECTING CROSS-REFERENCES IN OTHER ARTICLES WILL BE INCLUDED IN THE ORDINANCE]:

2.305 Additional Development Regulations

* * *

- C. ***Drive-through facilities.*** NO PORTION OF A DRIVE-THROUGH FACILITY'S DRIVE-THROUGH AISLE SHALL BE WITHIN ~~Drive-through facilities shall be a minimum of 50 feet~~ OF ~~from~~ property designated for residential use in the General Plan."

* * *

Chapter I 4.506 Supplemental Use Regulations

Article 4.506 Supplemental Use Regulations is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~) [NOTE, NUMBERING CHANGES AFFECTING CROSS-REFERENCES IN OTHER ARTICLES WILL BE INCLUDED IN THE ORDINANCE]:

~~4.506~~ *Drive-through aisles shall be located and developed in compliance with the following standards:*
~~Drive-through aisles shall be located at least 100 feet from a single family or multi family lot or parcel or an area designated as Single Family or Multi Family Residential use in the General Plan. This distance may be reduced by:~~
~~1. The width of a recorded open space tract on an adjacent parcel; or~~
~~2. The width of an adjacent street.~~
~~In no event shall the required building setback for the district be reduced."~~

~~4.5067~~ *Farm Stands*

~~4.5078~~ *Animal Services*

~~4.5089~~ *Cemeteries*

~~4.50910~~ *Non-Traditional Business Uses*

~~4.501011~~ *Sexually-Oriented Businesses*
* * * *Table 4.501011* * * *

~~4.501112~~ *Temporary Uses*
* * * *Table 4.501112* * * *

~~4.501213~~ *Temporary Structures*

~~4.501314~~ *Medical Marijuana Dispensaries and Offsite Cultivation Sites*
* * * *Table 4.501314* * * *

~~4.501415~~ *Recovery Residence*

~~4.501516~~ *Miscellaneous Provisions*

Overview

Z-14-15-A.3 “Minor Land Division and Minor Subdivision; Approval Expiration”

Chapter III “Subdivision Regulations” of the Land Development (LDC) provides regulations and processes for certain divisions of land, which do not necessitate a full preliminary and final platting formal review, more commonly known as minor land division and minor subdivision. While these divisions of land typically do not require major infrastructure and/or public improvements either internal or external to the site; their creation of new lots must be properly recorded with the Maricopa County Recorder’s Office to ensure the entitlement’s boundaries are legally recognizable. It is within the Town’s interest and responsibility to the public to ensure the community welfare’s is protected by the proper recording of approved minor land divisions and subdivisions. Staff has observed a potential oversight in the Land Development Code’s attention to this objective; specifically Section 1.209 of Chapter III of the LDC states:

1.209 Effective Date and Expiration Date

A. Effective Date. The effective date of the minor land division or minor subdivision shall be the 11th day after approval, if no appeal has been filed.

B. Expiration Date. A minor land division or minor subdivision shall automatically expire 2 years from its effective date.

It is reasonable to assume that the intent of 1.209B is to compel property owners receiving approval of a minor land division or subdivision to have recorded the approved lot split(s) within a reasonable amount of time. However, the critical qualifying language to achieve the intent is clearly missing from the text.

Staff finds the current regulation calling for the automatic expiration of minor land divisions and minor subdivisions two-years from the date of the Town’s approval to be a per se error that was intended to tie the approval of these types of lot-splitting to a schedule for recordation.

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code to effect a requirement for recordation of approved minor land divisions and subdivisions within a specified period by the owner of the affected land, subject to automatic expiration for non-compliance.

Chapter III 1.209 Effective Date and Expiration Date

Article 1.209 Effective Date and Expiration Date is hereby amended to read as follows (additions in ALL CAPS; deletions in strikeout):

* * *

B. Expiration Date. A minor land division or minor subdivision shall automatically expire 2 years from its effective date, IF NOT PROPERLY RECORDED WITH THE OFFICE OF THE MARICOPA COUNTY RECORDER.

* * *

Overview

Z-14-15-A.4 “Employment Districts; Accessory Retail Sales”

Staff has identified contradictory regulations pertaining to the secondary or accessory retail display and related activities within the employment zoning districts. A variety of industrial and manufacturing operations realize economic benefits from sales of their products on site as well as sales of other products that the operator considers complimentary. Restrictions on retailing within employment districts exist to ensure areas identified to support and maintain the Town’s job-base are not negatively impacted by underutilization through retailing operations on more intensely planned commercial growth areas. The current restrictions in place have been identified by the business community as too restrictive and needing adjustment. Staff has reviewed the current standards and has identified opportunities to clarify the regulations (to ensure implementation consistency) as well as provide for more flexibility towards conducting secondary retailing activities in support of a primary employment use.

There are three employment zoning districts; Business Park (BP), Light Industrial (LI) and General Industrial (GI). Retailing as a secondary use within the employment districts are regulated as described below.

Table 2.603: Land Use Regulations – Employment Districts

<i>Use Classification</i>	<i>BP</i>	<i>LI</i>	<i>GI</i>	<i>Additional Regulations</i>
<i>Retail Sales, General</i>	<i>L2, L3</i>	<i>L2, L3</i>	<i>--</i>	<i>n/a</i>
<i>Limitations</i>				
<i>L2 -- Drive-through facilities prohibited.</i>				
<i>L3 -- Only as a use incidental to the principal use of the property. Retail uses shall not exceed 1000 sq. ft. Gross Floor Area (GFA).</i>				

2.606 Additional Use Regulations

A. Retail Sales. *The area occupied by retail sales of products manufactured, assembled, processed, or distributed on the site shall not exceed 15 percent of the gross floor area of the use. Other than retail sales permitted in Section 2.603: Land Use Regulations, the retail sale of products not manufactured, assembled, processed, or distributed on the site is prohibited.*

The Table 2.603 restriction of capping retail at 1,000 sf of GFA and the Section 2.606 “Additional Use Regulations” restriction of capping retail at 15% of GFA achieve two different development outcomes. Staff believes a fixed square-footage cap for retailing activities is less efficient than the proportional cap provided by the percentage of total GFA promulgated by Section 2.606. Furthermore, an increase of this percentage, as desired by the business community, would help ensure larger operations (which may have larger product) can realize the economic benefits of manufacturing and sales single-site integration. Furthermore, the existing regulations do not provide a mechanism for commercial operations in the GI zoning district to

conduct any retailing activity on-site. The business community would like these larger and more intense industrial operations to have some ability to display and sell their products on site.

At the Planning Commission’s August 6, 2014 Study Session, the Commission asked staff to clarify the definition of principal use in relation to calculating the allowable percentage of incidental retail sales. The issue of understanding principal use within an industrial context is of particular importance as many of these types of business are relatively complicated in nature with respect to business operations and in practice, may utilize multiple principal buildings on a single site. Staff analyzed this issue with regard to existing Land Development Code guidance on the matter as well as the Municipal Code treatment of business licensing. The following LDC Glossary of Terms items are relevant to this analysis:

Terms

<i>Building, Main or Principal.</i>	A building where the principal use of a lot is conducted.
<i>Floor Area, Gross.</i>	The total area in square feet of all floors designed for tenant occupancy and common use, including basements, mezzanines, stairwells, and storage areas, measured from the centerline of interior partitions and from outside wall faces. Non air conditioned courtyards shall not be considered in gross floor area calculations.
<i>Principal Structure.</i>	The main building or structure on a lot or parcel.
<i>Retail Sales.</i>	The sale, rental, or lease of goods, products, or material directly to the consumer.
<i>Use, Incidental.</i>	The use of a building or land which is subordinate to the principal use of the building or land on the same lot or parcel.
<i>Use, Principal.</i>	The primary or predominant use or activity occurring on a property.
<i>Wholesale Sales.</i>	The sales of goods, product, or material to other wholesale or retail businesses.

The Glossary Terms provide key guidance on this issue. For example, a site whose principal use is conducted within multiple buildings would have a cumulative GFA of “X” and the incidental retailing allowance would be the specified percentage of “X”. To differentiate between Principal Structures and Incidental (Accessory) Structures, the definitions of “Use, Incidental” and “Use, Principal” would be applied to the operations conducted within the structures. This determination would further depend on the Town’s Business License application, which specifically calls out the Tax Code for the business as well as the narrative description of the business; a portion of the Business License is provided below:

2. BUSINESS INFORMATION	
Business Trade Name _____	AZ Sales Tax # _____
Business Location _____ Suite # _____ (where business takes place)	
Mailing Address _____ (if different from above)	
Phone _____	Fax _____ E-mail _____
Website _____ Date to begin in Gilbert _____	
Exact Nature of Business* _____	
<small>*A Use permit is required for some businesses including: pawn shops, adult businesses, tattoo/piercing studios, non-chartered financial institutions and smoking lounges.</small>	

In the most complicated of scenarios, staff would analyze the primary business processes of the use and make a determination as to what structures or portions of structures are devoted to the primary business processes; this determination would be the basis for calculating cumulative GFA of principal use and delineating that floor area, which is incidental to the primary business processes.

In summary, staff finds sufficient guidance exists in the Land Development Code for making routine determinations of principal use GFA as well as less common and more complicated calculations that involve multiple buildings on a single site. As such, no changes are proposed to the Land Development Code or Town Code with regard to further clarifying characteristics of principal or incidental use. Staff does, however, recognize the more complicated nature of industrial operations and making a cumulative GFA determination. The specific operations of a particular industrial use generally demands that the determination be made on a case by case basis.

Proposed Zoning Code Amendment

Planning staff is evaluating potential changes to the Land Development Code by increasing the allowance for secondary retailing activities in the Business Park (BP) and Light Industrial (LI) zoning districts from 15% to 20% and removing the total floor area cap for retailing. In addition, staff proposes introducing an allowance for secondary retailing activity in the General Industrial (GI), such that area equal up to 10% of the primary use's GFA could be utilized for related retail display and sales.

Chapter I 2.603 Land Use Regulations

Chapter I, Section 2.603 Employment District – Land Use Regulations is hereby amended to read as follows (additions in UNDERLINE ALL CAPS; deletions in ~~strikeout~~):

Table 2.603: Land Use Regulations – Employment Districts

Use Classification	BP	LI	GI	Additional Regulations
<i>Retail Sales, General</i>	<i>L2, <u>L.3A</u></i>	<i>L2, L.3A</i>	<i><u>L2, L3.B</u></i>	<i>n/a</i>
* * *				
Limitations				
<i>L2 -- Drive-through facilities prohibited.</i>				
<i><u>L3.A</u> -- Only as a use incidental to the principal use of the property. Retail uses shall not exceed <u>20% OF 1000 sq. ft. THE PRINCIPAL USE</u> Gross Floor Area (GFA).</i>				
* * *				
<i><u>L3.B-- ONLY AS A USE INCIDENTAL TO THE PRINCIPAL USE OF THE PROPERTY. RETAIL USES SHALL NOT EXCEED 10% OF THE PRINCIPAL USE GROSS FLOOR AREA (GFA).</u></i>				
* * *				

Chapter I 2.606 Additional Use Regulations

Chapter I, Section 2.606 Additional Use Regulations is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~) [NOTE, NUMBERING CHANGES AFFECTING CROSS-REFERENCES IN OTHER ARTICLES WILL BE INCLUDED IN THE ORDINANCE]:

2.606 Additional Use Regulations

~~A. **Retail Sales.** The area occupied by retail sales of products manufactured, assembled, processed, or distributed on the site shall not exceed 15 percent of the gross floor area of the use. Other than retail sales permitted in Section 2.603: Land Use Regulations, the retail sale of products not manufactured, assembled, processed, or distributed on the site is prohibited.~~

~~AB. Outdoor Storage.~~

* * *

~~BC. Personal Property Storage.~~

* * *

~~CD. Fueling Facility Abandonment.~~

* * *

~~DE. Fueling Facility Reuse.~~

* * *

~~EF. Access to Residential Property.~~

* * *

Overview

Z-14-15-A.5 “Private Open Space; Screening”

The Land Development Code requires that development within a Multi-Family Residential District provide an exterior Private Open Space for each dwelling unit (LDC Article I, 2.204.B). The development community has expressed a desire to modify the required screen wall element for private open space, which currently mandates that each private open space be screened by a wall of at least four feet in height. While a four-foot wall height is necessary for second-story, and above, units; a ground floor unit’s exterior private open space screening and transition can be achieved by a lower wall height.

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code reducing the required wall height from four to three feet for exterior private open space provided with a ground floor dwelling unit.

Chapter I 2.204.B Multi-Family Residential Districts; Site Development Regulations; Private Open Space

Multi-Family Residential Districts; Site Development Regulations Private Open Space is hereby amended to read as follows (additions in UNDERLINE AND/OR ALL CAPS; deletions in ~~strikeout~~):

* * *

B. Private Open Space. Each unit shall contain an exterior private open space. NO dimension of private open space ~~is~~ SHALL BE LESS THAN 6 feet. Private open space shall be covered and screened by a wall of 4 feet in height. Ground floor private open space may be screened by a wall NO LESS THAN THREE FEET ~~exceeding 4 feet~~, but no more than 8 feet in height.

* * *

Overview

Z-14-15-A.6 “Detached Building Definition”

The Land Development Code (LDC) Glossary currently defines a detached building as follows:

Building, Detached. Any building or structure separated by at least 5 feet in horizontal distance from any other building or structure.

In quickly reviewing a handful of zoning ordinances from other municipalities around the State; in most cases “detached” is simply defined as not being directly attached to another structure or in many cases, isn’t defined at all. Some jurisdictions have function-specific standards for detached structures, such as Scottsdale’s spacing requirement and definition for what constitutes a detached garage.

In reviewing applicable buildings codes, staff found that the definition of detached structures was also more simplistic than the current LDC treatment. The International Residential Code does not provide for a minimum separation for two detached structures. The International Building Code provides guidance for detached structures in the form of firewall ratings based on detached building proximity as well as other guidelines (such as the placement of openings in relation to certain detached wall separation distances).

To achieve better flexibility in LDC administration and to remove standards that do not appear necessary for either an aesthetic or safety purpose; staff finds that removal of the 5' standard from the definition of detached building would reduce confusion and provide for greater ability in site design diversity pertaining to accessory or subordinate structures and development features.

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code by simplifying the definition of a detached building.

Glossary of General Terms

Glossary of General Terms Building, Detached is hereby amended to read as follows (additions in UNDERLINE AND/OR ALL CAPS; deletions in ~~strikeout~~):

Terms

* * *

Building, Detached. **A BUILDING IS DETACHED WHEN IT IS NOT ATTACHED OR OTHERWISE PERMANENTLY FASTENED TO ANY OTHER BUILDING.** ~~Any building or structure separated by at least 5 feet in horizontal distance from any other building or structure.~~

* * *

Overview

Z-14-15-A.7 “Guest Quarters”

The Land Development Code (LDC) Glossary currently defines Guest Quarters as follows:

Guest Quarters. *A permanent structure used for the temporary housing of family members and non-paying guests, which does not include built-in cooking facilities, and is not equipped for kitchen appliances requiring 220-volt electric service or natural gas.*

The term Guest Quarters is applied exclusively to single family residential development and moreover, Article 2.1 “Single Family Residential Districts” provides guidelines for the placement and use of Guest Quarters, as detailed below.

2.106 Additional Development Regulations

C. Guest Quarters. Guest Quarters shall comply with the following regulations:

1. *Establishment.* Guest Quarters shall not be constructed prior to construction of the dwelling unit.
2. *Number.* One Guest Quarters is permitted on a lot or parcel.

3. *Location:* Guest Quarters shall be located within the building envelope.
4. *Additional Standards:*
 - a. Guest Quarters may be attached to the principal dwelling;
 - b. Guest Quarters shall use utility service provided to the principal dwelling;
 - c. Ranges, ovens, and built-in cooking facilities are prohibited;
 - d. Separate renting or leasing from the principal dwelling is prohibited;
 - e. Guest Quarters shall not exceed the height of the principal dwelling; and
 - f. Design of Guest Quarters shall be compatible with the design of the principal dwelling in materials, colors and architectural style.

The issue that has arisen relates to subpart 4.e above, which has the effect of prohibiting a ‘carriage-house’ type design whereby the guest quarters is located above a detached or attached garage structure. This design type is very common throughout our region and provides a logical mechanism for fostering infill development and more compact urban form, critical principles of Smart Growth. Additionally, increased design flexibility for guest quarters gives our community’s families more opportunities to grow and change overtime without having to leave their home or lot. This proposed text amendment seeks to establish an allowance for guest quarters above garages.

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code by removing the restriction on the location and siting of Guest Quarters.

Chapter I 2.106.C Single Family Residential Districts; Additional Development Regulations; Guest Quarters

Single Family Residential Districts; Additional Development Regulations Guest Quarters is hereby amended to read as follows (additions in UNDERLINE AND/OR ALL CAPS; deletions in ~~strikeout~~):

4. Additional Standards

* * *

e. Guest Quarters shall BE A SINGLE FLOOR AND NOT EXCEED THE PRINCIPAL STRUCTURE MAXIMUM HEIGHT REQUIREMENT OF THE BASE ZONING DISTRICT; GUEST QUARTERS MAY BE LOCATED ABOVE AN ATTACHED OR DETACHED GARAGE; AND ~~not exceed the height of the principal dwelling; and~~

* * *

Overview

Z-14-15-A.8 “Accessory Structures”

Land Development Code section 2.106.B provides regulations for siting accessory structures within Single Family Residential Districts. Staff has observed a technical error in the current text regarding the area threshold that triggers a building permit; the text currently reflects the

International Building Code threshold of 120 square feet, or larger, for structures that require a permit. The Town, however, administers the International Residential Code (IRC) with respect to accessory structure placement in Single Family Residential Districts; the IRC allows for structures up to 200 square feet to be erected without a building permit. The purpose of this text amendment is to correct a technical error that is in conflict with the Town's permitting procedures.

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code by correcting a technical error related to the size threshold for residential accessory structures requiring a building permit.

Chapter I 2.106.B Single Family Residential Districts; Additional Development Regulations; Accessory Structures

Single Family Residential Districts; Additional Development Regulations Accessory Structures is hereby amended to read as follows (additions in UNDERLINE AND/OR ALL CAPS; deletions in ~~strikeout~~):

* * *

B. Accessory Structures. *Accessory structures requiring a building permit (LARGER THAN 200 SQUARE FEET~~120 square feet or larger~~) shall comply with the following regulations:*

* * *

Overview

Z-14-15-A.9 "Parking; Side Yard Setback"

The Land Development Code provides various regulations concerning the placement, quantity and design of off-street parking; specifically, section 4.203.X of Article I promulgates standards for parking provisions in excess of the minimum requirement for Single Family Residential Lots. While generally allowed, the right to construct and maintain a single, dust-proofed, parking space within the required side yard building setback is not immediately clear. Staff proposes a text amendment with the intent of clarifying this allowance.

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code by clarifying the right to provide a dust-proofed parking space within the required side yard building setback.

Chapter I 4.203.X Off-Street Parking and Loading Regulations; Additional Parking on Single Family Residential Lots

Off-Street Parking and Loading Regulations Additional Parking on Single Family Residential Lots is hereby amended to read as follows (additions in UNDERLINE AND/OR ALL CAPS; deletions in ~~strikeout~~):

* * *

X. Additional Parking on Single Family Residential Lots.

1. One additional uncovered parking space may be constructed next to the driveway or adjacent to a garage or carport. On corner lots, the parking space shall not be constructed in the street side setback area. ON INTERIOR AND FLAG LOTS, THE PARKING SPACE MAY BE CONSTRUCTED IN THE REQUIRED SIDE YARD BUILDING SETBACK.

2. The additional parking space permitted by this section shall comply with the following standards:

a. The parking space shall have a surface of asphalt, concrete, decomposed granite or gravel.

b. The surface may consist of 2 parallel concrete or cement strips. The area between such parallel strips shall be landscaped with vegetative or non-vegetative ground cover.

c. No parked vehicle may obstruct or encroach on a sidewalk.

d. Access to the parking space shall be via a curb cut, rolled curb, or driveway.

3. No motor vehicle, recreational vehicle or trailer shall be parked in the front or side setback visible from the street, except on a driveway or additional parking space permitted in this section.

* * *

Overview

Z-14-15-A.10 “Tower and Freeway Signage; Flexibility for Non-Residential Zoning Districts”

The Land Development Code (LDC) currently limits Tower and Freeway Signage to Commercial zoning districts. The LDC Glossary defines Freeway Signs as a freestanding sign intended to advertise or identify uses to motorists on a freeway and defines Tower Signs as a freestanding sign greater than 8 feet and not more than 15 feet in height. Staff has had noted interest from the business community to expand the use of these types of signs to industrial development type adjacent to a freeway where there is benefit to the development community to take advantage of the adjacent freeway exposure. Staff finds that employment and industrial uses as well as public facility and institutional uses would potentially benefit from allowances for both tower and freeway signage. The existing regulations for erecting Tower and Freeway Signage are further described below.

Chapter I, Article 4.407.C.2

b. Tower Signs. *Tower Signs are permitted in the Regional Commercial and General Commercial zoning districts for retail centers exceeding 40 net acres, as follows:*

(1) Number. One on-site Tower Sign is permitted for each 500 feet of street frontage, provided the total number of all Freestanding Signs, including Monument Signs, shall not exceed 1 sign per 300 feet of street frontage.

(2) Height. Tower Signs shall not exceed a maximum height of 15 feet.

- (3) *Area. The maximum area permitted for a Tower Sign shall be 80 square feet. The area of a Tower Sign may be increased by an additional 20 square feet for the identification of tenants or occupants of suites 5,000 square feet or less in area.*
- (4) *Setback. Tower Signs shall be set back a minimum of 3 feet from the right-of-way.*
- (5) *Spacing. Tower Signs shall maintain a minimum spacing of 300 feet from any other Freestanding Sign on the same street frontage, except that the Design Review Board may approve a spacing less than 300 feet, but not less than 100 feet, in connection with approval of a Comprehensive Sign Program or Master Sign Plan, upon a finding that the spacing will not result in an appearance of sign clutter.*
- (6) *Changeable Message Signs. Permitted subject to sign criteria contained in Section 4.403G.*

c. Freeway Signs. *Properties exceeding 15 net acres and abutting a freeway identified in the circulation element of the General Plan may have Freeway Signs as follows:*

- (1) *Number. One on-site Freeway Sign shall be permitted for each 400 feet of freeway frontage.*
- (2) *Height. Freeway Signs shall not exceed a maximum height of 60 feet above grade or 30 feet above the grade of the nearest lanes of the adjacent freeway main travel surface, whichever is greater.*
- (3) *Area. The maximum area for a Freeway Sign shall not exceed 500 square feet. An additional 20 percent of sign area is permitted to identify the name of the center.*
- (4) *Setback. Freeway Signs shall be set back a minimum of 150 feet from:*
 - i. *Right-of-way other than a freeway; and*
 - ii. *A property line adjacent to property designated for retail or residential use in the General Plan.**Freeway Signs shall be set back a distance equal to the height of the sign from a property line adjacent to property designated for uses other than retail or residential in the General Plan.*
- (5) *Location, Orientation and Spacing. Freeway Signs shall be located within 100 feet of the freeway right-of-way and shall be oriented to the freeway. A sign shall be considered oriented to a freeway where the sign face makes an interior angle of more than 30 degrees to the freeway. Freeway Signs shall maintain a minimum spacing of 400 feet from any other Freeway Sign on the same property.*
- (6) *Changeable Message Signs. Freeway Signs may include Changeable Message Signs subject to sign criteria contained in section 4.403G.*

At the Planning Commission's August 6, 2014 Study Session, the Commission directed staff to limit the allowance of tower and freeway signage to Office/Employment and Public Facility/Institutional uses. The Commission discussed the potential for a mixed-use (residential and commercial) site to benefit from this allowance, however, the discussion concluded that these unique situations should be treated on a case by case basis and perhaps best addressed through a PAD or Master Signage Program when mixed use projects identify these signs as beneficial to their development.

Proposed Zoning Code Amendment

Planning staff proposes changes to the Land Development Code by increasing the allowance for Tower and Freeway signs in Office/Employment and Public Facility/Institutional zoning districts.

Chapter I 4.409 Sign Regulations; Office/Employment

Chapter I, Section 4.409.C.2 Office/Employment; Permanent Signs; Freestanding Signs is hereby amended to read as follows (additions in UNDERLINE AND/OR ALL CAPS; deletions in ~~strikeout~~):

C.2 Freestanding Signs

* * *

b. THE FOLLOWING PERMANENT SIGNS ARE ALLOWED IN AN OFFICE/
EMPLOYMENT DISTRICT THAT ABUTS A FREEWAY:

(1). TOWER SIGNS. TOWER SIGNS ARE PERMITTED FOR SITES EXCEEDING 40
NET ACRES, AS FOLLOWS:

(i) NUMBER. ONE ON-SITE TOWER SIGN IS PERMITTED FOR EACH 500
FEET OF STREET FRONTAGE, PROVIDED THE TOTAL NUMBER OF ALL
FREESTANDING SIGNS, INCLUDING MONUMENT SIGNS, SHALL NOT
EXCEED 1 SIGN PER 300 FEET OF STREET FRONTAGE.

(ii) HEIGHT. TOWER SIGNS SHALL NOT EXCEED A MAXIMUM HEIGHT OF
15 FEET.

(iii) AREA. THE MAXIMUM AREA PERMITTED FOR A TOWER SIGN SHALL
BE 80 SQUARE FEET. THE AREA OF A TOWER SIGN MAY BE INCREASED
BY AN ADDITIONAL 20 SQUARE FEET FOR THE IDENTIFICATION OF
TENANTS OR OCCUPANTS OF SUITES 5,000 SQUARE FEET OR LESS IN
AREA.

(iv) SETBACK. TOWER SIGNS SHALL BE SET BACK A MINIMUM OF 3 FEET
FROM THE RIGHT-OF-WAY.

(v) SPACING. TOWER SIGNS SHALL MAINTAIN A MINIMUM SPACING OF
300 FEET FROM ANY OTHER FREESTANDING SIGN ON THE SAME STREET
FRONTAGE, EXCEPT THAT THE DESIGN REVIEW BOARD MAY APPROVE
A SPACING LESS THAN 300 FEET, BUT NOT LESS THAN 100 FEET, IN
CONNECTION WITH APPROVAL OF A COMPREHENSIVE SIGN PROGRAM
OR MASTER SIGN PLAN, UPON A FINDING THAT THE SPACING WILL NOT
RESULT IN AN APPEARANCE OF SIGN CLUTTER.

(vi) CHANGEABLE MESSAGE SIGNS. PERMITTED SUBJECT TO SIGN
CRITERIA CONTAINED IN SECTION 4.403G.

(2). FREEWAY SIGNS. FREEWAY SIGNS ARE PERMITTED FOR SITES EXCEEDING
15 NET ACRES:

(i) NUMBER. ONE ON-SITE FREEWAY SIGN SHALL BE PERMITTED FOR
EACH 400 FEET OF FREEWAY FRONTAGE.

(ii) HEIGHT. FREEWAY SIGNS SHALL NOT EXCEED A MAXIMUM HEIGHT
OF 60 FEET ABOVE GRADE OR 30 FEET ABOVE THE GRADE OF THE
NEAREST LANES OF THE ADJACENT FREEWAY MAIN TRAVEL SURFACE,
WHICHEVER IS GREATER.

(iii) AREA. THE MAXIMUM AREA FOR A FREEWAY SIGN SHALL NOT EXCEED 500 SQUARE FEET. AN ADDITIONAL 20 PERCENT OF SIGN AREA IS PERMITTED TO IDENTIFY THE NAME OF THE CENTER.

(iv) SETBACK. FREEWAY SIGNS SHALL BE SET BACK A MINIMUM OF 150 FEET FROM:

1. RIGHT-OF-WAY OTHER THAN A FREEWAY; AND

2. A PROPERTY LINE ADJACENT TO PROPERTY DESIGNATED FOR RETAIL OR RESIDENTIAL USE IN THE GENERAL PLAN.

FREEWAY SIGNS SHALL BE SET BACK A DISTANCE EQUAL TO THE HEIGHT OF THE SIGN FROM A PROPERTY LINE ADJACENT TO PROPERTY DESIGNATED FOR USES OTHER THAN RETAIL OR RESIDENTIAL IN THE GENERAL PLAN.

(v) LOCATION, ORIENTATION AND SPACING. FREEWAY SIGNS SHALL BE LOCATED WITHIN 100 FEET OF THE FREEWAY RIGHT-OF-WAY AND SHALL BE ORIENTED TO THE FREEWAY. A SIGN SHALL BE CONSIDERED ORIENTED TO A FREEWAY WHERE THE SIGN FACE MAKES AN INTERIOR ANGLE OF MORE THAN 30 DEGREES TO THE FREEWAY. FREEWAY SIGNS SHALL MAINTAIN A MINIMUM SPACING OF 400 FEET FROM ANY OTHER FREEWAY SIGN ON THE SAME PROPERTY.

(vi) CHANGEABLE MESSAGE SIGNS. FREEWAY SIGNS MAY INCLUDE CHANGEABLE MESSAGE SIGNS SUBJECT TO SIGN CRITERIA CONTAINED IN SECTION 4.403G.

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Chapter I 4.4010 Sign Regulations; Public Facility/ Institutional

Chapter I, Section 4.4010.C.2 Public Facility/ Institutional; Permanent Signs; Freestanding Signs is hereby amended to read as follows (additions in UNDERLINE AND/OR ALL CAPS; deletions in ~~strikeout~~):

C.2 Freestanding Signs

* * *

c. THE FOLLOWING PERMANENT SIGNS ARE ALLOWED IN A PUBLIC FACILITY/ INSTITUTIONAL DISTRICT THAT ABUTS A FREEWAY:

(1). TOWER SIGNS. TOWER SIGNS ARE PERMITTED FOR SITES EXCEEDING 40 NET ACRES, AS FOLLOWS:

(i) NUMBER. ONE ON-SITE TOWER SIGN IS PERMITTED FOR EACH 500 FEET OF STREET FRONTAGE, PROVIDED THE TOTAL NUMBER OF ALL FREESTANDING SIGNS, INCLUDING MONUMENT SIGNS, SHALL NOT EXCEED 1 SIGN PER 300 FEET OF STREET FRONTAGE.

(ii) HEIGHT. TOWER SIGNS SHALL NOT EXCEED A MAXIMUM HEIGHT OF 15 FEET.

(iii) AREA. THE MAXIMUM AREA PERMITTED FOR A TOWER SIGN SHALL BE 80 SQUARE FEET. THE AREA OF A TOWER SIGN MAY BE INCREASED BY AN ADDITIONAL 20 SQUARE FEET FOR THE IDENTIFICATION OF TENANTS OR OCCUPANTS OF SUITES 5,000 SQUARE FEET OR LESS IN AREA.

(iv) SETBACK. TOWER SIGNS SHALL BE SET BACK A MINIMUM OF 3 FEET FROM THE RIGHT-OF-WAY.

(v) SPACING. TOWER SIGNS SHALL MAINTAIN A MINIMUM SPACING OF 300 FEET FROM ANY OTHER FREESTANDING SIGN ON THE SAME STREET FRONTAGE, EXCEPT THAT THE DESIGN REVIEW BOARD MAY APPROVE A SPACING LESS THAN 300 FEET, BUT NOT LESS THAN 100 FEET, IN CONNECTION WITH APPROVAL OF A COMPREHENSIVE SIGN PROGRAM OR MASTER SIGN PLAN, UPON A FINDING THAT THE SPACING WILL NOT RESULT IN AN APPEARANCE OF SIGN CLUTTER.

(vi) CHANGEABLE MESSAGE SIGNS. PERMITTED SUBJECT TO SIGN CRITERIA CONTAINED IN SECTION 4.403G.

(2). FREEWAY SIGNS. FREEWAY SIGNS ARE PERMITTED FOR SITES EXCEEDING 15 NET ACRES:

(i) NUMBER. ONE ON-SITE FREEWAY SIGN SHALL BE PERMITTED FOR EACH 400 FEET OF FREEWAY FRONTAGE.

(ii) HEIGHT. FREEWAY SIGNS SHALL NOT EXCEED A MAXIMUM HEIGHT OF 60 FEET ABOVE GRADE OR 30 FEET ABOVE THE GRADE OF THE NEAREST LANES OF THE ADJACENT FREEWAY MAIN TRAVEL SURFACE, WHICHEVER IS GREATER.

(iii) AREA. THE MAXIMUM AREA FOR A FREEWAY SIGN SHALL NOT EXCEED 500 SQUARE FEET. AN ADDITIONAL 20 PERCENT OF SIGN AREA IS PERMITTED TO IDENTIFY THE NAME OF THE CENTER.

(iv) SETBACK. FREEWAY SIGNS SHALL BE SET BACK A MINIMUM OF 150 FEET FROM:

1. RIGHT-OF-WAY OTHER THAN A FREEWAY; AND

2. A PROPERTY LINE ADJACENT TO PROPERTY DESIGNATED FOR RETAIL OR RESIDENTIAL USE IN THE GENERAL PLAN.

FREEWAY SIGNS SHALL BE SET BACK A DISTANCE EQUAL TO THE HEIGHT OF THE SIGN FROM A PROPERTY LINE ADJACENT TO PROPERTY DESIGNATED FOR USES OTHER THAN RETAIL OR RESIDENTIAL IN THE GENERAL PLAN.

(v) LOCATION, ORIENTATION AND SPACING. FREEWAY SIGNS SHALL BE LOCATED WITHIN 100 FEET OF THE FREEWAY RIGHT-OF-WAY AND SHALL BE ORIENTED TO THE FREEWAY. A SIGN SHALL BE CONSIDERED ORIENTED TO A FREEWAY WHERE THE SIGN FACE MAKES AN INTERIOR ANGLE OF MORE THAN 30 DEGREES TO THE FREEWAY. FREEWAY SIGNS SHALL MAINTAIN A MINIMUM SPACING OF 400 FEET FROM ANY OTHER FREEWAY SIGN ON THE SAME PROPERTY.

(vi) CHANGEABLE MESSAGE SIGNS. FREEWAY SIGNS MAY INCLUDE CHANGEABLE MESSAGE SIGNS SUBJECT TO SIGN CRITERIA CONTAINED IN SECTION 4.403G.

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REASONS FOR THE RECOMMENDATION

1. The proposed text amendments conform to the Town of Gilbert General Plan.
2. All required public notice has been conducted in accordance with applicable state and local laws.
3. All required public meetings and hearings have been held in accordance with applicable state and local laws.
4. The proposed text amendments support the Town's strategic initiative for Community Livability.
5. The proposed text amendments provide for better clarity and usability of the Land Development Code.
6. The proposed text amendments contribute to and foster community and economic development.
7. The proposed text amendments maintain and enhance the public's health, safety and welfare.

STAFF RECOMMENDATION

For the following reasons: the proposed regulations will provide for better Land Development Code clarity, enhance economic development opportunities and maintain the public's welfare, the Planning Commission moves to recommend approval to the Town Council for Z14-15-A, a request to amend Land Development Code regulations related to: Medical Marijuana Facility, Hours of Operation; Drive-Through Facilities, Separation from Residential Uses; Minor Land Division and Minor Subdivision, Approval Expiration; Employment Districts, Accessory Retail Sales; Private Open Space, Screening; Detached Building Definition; Guest Quarters; Accessory Structures; Parking, Side Yard Setback; and Tower and Freeway Signage in Non-Residential Districts.

Respectfully submitted,



Jordan Feld, AICP
Senior Planner

Attachments:

1. Findings of Fact

FINDINGS OF FACT
Z14-15-A

Staff provides the following findings of facts, subject to the conditions of approval provided below, to substantiate approval of the project:

1. The proposed zoning amendment conforms to the General Plan as amended, any applicable Specific Area Plan, neighborhood, or other plan and any overlay zoning district.
2. All required public notice has been conducted in accordance with applicable state and local laws.
3. All required public meetings and hearings have been held in accordance with applicable state and local laws.
4. The proposed rezoning supports the Town's strategic initiative for Community Livability. It supports the motto "Gilbert: Clean, Safe, Vibrant."